

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION**

**TROUT POINT LODGE, LIMITED, A Nova Scotia
Limited Company; VAUGHN PERRET and
CHARLES LEARY**

PLAINTIFFS

VERSUS

CIVIL ACTION NO: 1:12CV00090 LG-JMR

DOUG K. HANDSHOE

DEFENDANT

**MOTION OF PLAINTIFFS TROUT POINT LODGE, LTD.,
A NOVA SCOTIA LIMITED COMPANY; VAUGHN PERRET;
AND CHARLES LEARY TO FILE ADDITIONAL BRIEFS ON
CROSS MOTIONS FOR SUMMARY JUDGMENT OR IN THE
ALTERNATIVE TO STRIKE BRIEF OF DEFENDANT**

COME NOW Plaintiffs, Trout Point Lodge, Ltd., a Nova Scotia Limited Company; Vaughn Perret; and Charles Leary, and file this Motion to File Additional Briefs on Cross Motions for Summary Judgment or in the Alternative to Strike Briefs of Defendant and in support would show on June 20, 2012 Plaintiffs filed their Motion for Summary Judgment and supporting Brief [Docket Nos. 6 and 7].

On June 28, 2012 Defendant filed his Memorandum in Opposition of Motion for Summary Judgment of Plaintiffs [Docket No. 11].

On July 11, 2012 Plaintiffs filed their Brief in Reply to Defendant Doug K. Handshoe's Memorandum in Opposition to Motion for Summary Judgment of Plaintiffs [Docket No. 16].

The filing of this brief should have ended the briefing, but on July 21, 2012 Defendant filed his Reply Memorandum of Defendant Douglas K. Handshoe [Docket No. 19]. This was Defendant's second brief resisting Plaintiff's Motion for Summary Judgment.

On July 27, 2012 Plaintiffs filed their Motion to Strike Reply Memorandum of Defendant Douglas K. Handshoe [Docket No. 23] and Memorandum Brief in Support of Motion to Strike Reply Memorandum of Defendant Douglas K. Handshoe [Docket No. 24]. This motion and brief sought to strike Defendant's second reply brief [Docket No. 19].

On July 27, 2012 counsel for Defendant notified counsel for Plaintiffs that Defendant wanted to file an additional brief to rebut points raised by Plaintiffs in their reply brief [Docket No. 16].

Counsel for Plaintiffs and Defendant thereafter discussed the fact that the Defendant had exceeded the number of briefs allowed by Uniform District Court Rule 7(b)(4) by filing his Reply Memorandum of Defendant, Douglas K. Handshoe [Docket No. 19] and would again violate that rule if he filed a new rebuttal brief. In an attempt to resolve these issues counsel agreed, that if the Court allowed, in return for Plaintiff not moving to strike Reply Memorandum of Defendant, Douglas K. Handshoe [Docket No. 19] and Defendant filing his desired rebuttal brief to Brief in Reply to Defendant Doug K. Handshoe's Memorandum in Opposition to Motion for Summary Judgment of Plaintiffs [Docket No. 16], Plaintiff could file a brief in reply to both those briefs of Defendant.

On July 30, 2012 Plaintiffs filed their Motion to Withdraw their Motion to Strike Reply Memorandum of Defendant Douglas K. Handshoe [Docket No. 25].

Alternatively, should the Court not grant the instant motion, then Plaintiffs move to strike Defendant Doug K. Handshoe's July 21, 2012 Memorandum in Opposition to Motion for Summary Judgment of Plaintiffs [Docket No. 19] as being in excess of the number of briefs he is allowed pursuant to Local Uniform District Rule 7(a)(4).

In further support of this Motion, Plaintiffs would show that on June 27, 2012 Defendant filed his cross motion for summary judgment and supporting brief [Docket Nos. 8 and 10].

On July 25, 2012 Plaintiffs filed their reply [Docket No. 20] to Motion for Summary Judgment by Doug K. Handshoe and Memorandum in Support of Motion for Summary Judgment [Docket Nos. 8 and 10]. Defendant's brief was 35 pages which is the maximum allowed by Uniform District Court Rule 7(a)(5), therefore the briefing on Defendant's cross motion has been completed.

Accordingly, while Defendant has already exceeded the number of briefs he is allowed to file in resisting Plaintiff's Motion for Summary Judgment and Defendant wishes to also file another brief in reply to Plaintiff's Brief in Reply to Defendant's Memorandum in Opposition to Motion for Summary Judgment of Plaintiffs [Docket No. 16], Plaintiffs do not oppose Defendant's being able to keep his impermissibly filed Reply Memorandum of Defendant Douglas K. Handshoe [Docket No. 19] on file and to file another brief in rebuttal to Brief of Plaintiffs Trout Point Lodge, Ltd., a Nova Scotia Limited Company; Vaughn Perret; and Charles Leary, in Reply to Defendant Doug K. Handshoe's Memorandum in Opposition to Motion for Summary Judgment of Plaintiffs [Docket No. 16], if Plaintiffs are allowed to file a brief in reply to both those briefs, thereby allowing Plaintiffs to file the last brief on their Motion for Summary Judgment as is done under the briefing schedule set forth in Uniform Local Rule 7(a)(4).

In further support of this Motion, should the Court allow the additional briefing, no brief be allowed to exceed 15 pages. In further support of this Motion, any brief to be filed by Defendant should be filed on or before August 7, 2012 and any brief thereafter filed by Plaintiffs should be filed on or before August 21, 2012.

Respectfully submitted, this the 2nd day of August, 2012.

Trout Point Lodge, Limited, Vaughn Perret and
Charles Leary

By: s/ Henry Laird
Henry Laird, Mississippi Bar No. 1774

CERTIFICATE OF SERVICE

I, Henry Laird, do hereby certify that I have sent a true and correct copy of the foregoing Plaintiffs' Motion to File Additional Briefs by using the ECF system to the following:

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This the 2nd day of August, 2012.

s/ Henry Laird
Henry Laird

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